

(H. B. 3863)

**(No. 118-2012)**

(Approved June 14, 2012)

## **AN ACT**

To add Section 4030.21 to Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” in order to exclude from the payment of the sales and use tax the occasional sales conducted and services provided by churches or religious organizations to raise funds for capital works and improvements for their facilities, activities directly related to their ministry, as well as to support charities and offer services that promote the development of social welfare programs; and for other related purposes.

### **STATEMENT OF MOTIVES**

Our administration has been characterized for collaborating closely with nonprofit entities, faith-based organizations, and churches in their efforts to address the evils that affect our society. In that sense, we have been emphatic in providing the third sector with greater resources so that they are able to offer better services to our people.

In this case, churches and faith-based organizations have greatly contributed to our fight against crime. For example, the Sports and Recreation Department (DRD, Spanish acronym) organized a basketball tournament last year in which over three thousand (3,000) youths and children between the ages of 8 and 18 years participated. This tournament not only served to promote participation in sports, but also helped to improve the physical condition of its participants and, consequently, their health, and kept them busy during their free time. Churches and faith-based organizations also seized this opportunity to promote the teaching of

values to the children participating in the tournament. In other words, sports was used to reduce crime, improve the quality of life of our youth and, in turn, instilled values that will enable them to become better citizens.

At present, churches and faith-based organizations are closely collaborating in the recovery of firearms conducted by the Government of Puerto Rico by virtue of the amnesty authorized by Act No. 34-2012. This Act allowed the participation of churches in the recovery of firearms with remarkable results. For example, in the first ten days of the amnesty, one hundred thirty-five (135) firearms and ten thousand one hundred sixty (10,160) ammunitions were received. If we compare these results with the previous weapons amnesty in Puerto Rico in 2004, where only 12 weapons were surrendered in the sixty-day amnesty, the results are even more impressive.

Consistent with our commitment to the work performed by these entities, the “Internal Revenue Code for a New Puerto Rico” (CRIPNP, Spanish acronym), Act No. 1-2011, as amended, allows taxpayers to deduct any contribution made to nonprofit entities, including churches, in their returns, regardless of the amount contributed. Previously, individuals could only deduct contributions made if the same exceeded three percent (3%) of the adjusted gross income or thirty-three percent (33%) of the amount of the contributions or donations made during the taxable year. Thus, the new vision introduced by the CRIPNP encourages the people to contribute more to these entities and reduces the dependence of the latter on government appropriations.

The social contribution made by churches and faith-based organizations of all denominations is indeed unquestionable. Their contribution is even more astonishing if we take into consideration that these institutions survive mainly from the humble contributions of their parishioners or from the proceeds of their sales in

the shops or kiosks established in their facilities to generate more funds. These activities must be promoted by the State to encourage them to continue making such valuable contributions to our society.

With the establishment of the Sales and Use Tax (SUT) in Puerto Rico, the sale of goods and services is subject to said tax, except for specific circumstances. This mechanism was created in order to deter tax evasion by providing for a tax to be paid by all citizens, including those that are part of the underground economy and usually are not among the citizens who comply with their tax responsibilities.

At present, the sales made by churches are subject to the collection of the SUT. This requires such institutions to incur expenses for the equipment needed to collect said tax, as well as for the preparation of the reports required and other related expenses. This reduces even more the limited income that these entities earn from the sale of food, religious articles, among others, whose market is usually limited to the parishioners who participate in the religious services offered by their churches.

Moreover, most of the time, these sales activities are conducted by parishioners who voluntarily offer their services, and not necessarily have the knowledge to manage all that pertains to the collection and the subsequent payment of the SUT.

These barriers affect the income of these institutions and limit their ability to fully comply with the social work they perform. Consistent with the public policy of this administration to promote and support the social work of these organizations, we must take affirmative action so that institutions that so greatly contribute to our society may direct more resources to where they are most required — to the service of the needy.

In light of the foregoing, this Legislative Assembly deems it pertinent to amend the CRIPNP to exclude from the sales and use tax any sales conducted by churches to raise money for capital works and improvements to their facilities, as well as to offer services that foster the development of programs for social welfare, health, education, culture, and recreation, among others. This shall provide these entities with an additional tool to continue contributing to the betterment of our society.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.— Section 4030.21 is hereby added to Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” to read as follows:

“Section 4030.21.- Exemption for Sales Made by Churches.

a. There shall be exempt from the sales and use tax any retail sales and occasional services described in subsection (b) of this Section conducted by churches or religious organizations described in Section 1101.01(a)(1) to raise funds for capital works and improvements for their facilities, activities directly related to their ministry, as well to support charities and offer services that promote the development of social welfare programs. Services that are supported with funds generated from these exempt sales shall be provided free of charge to the community.

b. Retail sales are described in this subsection as defined in Section 4010.01(tt), or occasional services, as defined by the Secretary through regulations, circular letter, information bulletin, or administrative determination of a general nature, provided that such sales are conducted and such services are rendered within the premises where the place of worship is located, that is to say, the church, chapel, sanctuary, temple, mosque, or structure of a similar nature; and

(1) all works related to the sale conducted or occasional service rendered for a church or religious organization without any compensation; or

(2) consisting of the sale of religious items or merchandise that has been received by a church or religious organization as a donation or contribution.

c. The following are expressly excluded from the application of this Section, regardless of whether they may be owned or operated by churches or religious organizations described in Section 1101.01(a)(1):

(1) Bookstores, cafeterias, or shops operated in or for colleges, academies, or schools;

(2) Nursing homes or senior housing;

(3) Museums;

(4) Bookstores, cafeterias, flower shops, or shops operated in or for hospitals or funeral homes; and

(5) Any other trade or business similar in nature.”

Section 2.— The Department of the Treasury is hereby authorized to conduct an information campaign on the provisions of this Act, without it being subject to the provisions of Section 12.001 of Act No. 78-2011, known as the “Puerto Rico Election Code for the 21<sup>st</sup> Century.”

Section 3.— If any part, paragraph, or section of this Act were held to be invalid, null, or unconstitutional by a body or Court with competent jurisdiction, the holding or ruling to such effect shall only affect the part, paragraph, or section thus held to be invalid, null, or unconstitutional.

Section 4.— This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 118-2012 (H. B. 3863)** of the **7<sup>th</sup> Regular Session** of the **16<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** to add Section 4030.21 to Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” in order to exclude from the payment of the sales and use tax the occasional sales conducted and services provided by churches or religious organizations to raise funds for capital works and improvements for their facilities, activities directly related to their ministry, as well as to support charities and offer services that promote the development of social welfare programs; and for other related purposes.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 18<sup>th</sup> day of August, 2016.

Juan Luis Martínez Martínez  
Director